91

(14)

No. 06-1595

FILED
APR 9 - 2008
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the Supreme Court of the United States

VICKY S. CRAWFORD,

Petitioner,

v.

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

JOINT APPENDIX

FRANCIS H. YOUNG
Counsel of Record
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
P.O. BOX 196300
NASHVILLE, TN 37219
(615) 862-6341
frank.young@nashville.gov
Attorney for Metropolitan Government of Nashville and Davidson County

ANN BUNTIN STEINER
Counsel of Record
STEINER & STEINER
214 SECOND AVENUE, N.
SUITE 203
NASHVILLE, TN 37201-1644
(615) 244-5063
asteiner@steinerandsteiner.com
Attorney for Petitioner

(Counsel continued on inside cover)

Petition for Certiorari Filed May 30, 2007
Petition for Certiorari Granted January 18, 2008

241 B 110

ERIC SCHNAPPER
UNIVERSITY OF WASHINGTON
SCHOOL OF LAW
P.O. BOX 353020
SEATTLE, WA 98195
(206) 616-3167
schnapp@u.washington.edu
Attorney for Petitioner

TABLE OF CONTENTS

Relevant Docket Entries 1

Affidavit of Vicky Crawford 10

Deposition of Vicky Crawford,
taken July 1, 2004 15

Deposition of Veronica Thompson Frazier,
taken April 28, 2004 30

Deposition of Dr. Pedro Enrique Garcia,
taken April 30, 2004 51

Deposition of Christopher Mason Henson,
taken March 29, 2004 77

Hearing Transcript of February 6, 2003 102

The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the Petition for Certiorari:

Appendix A - Order of the United States Court of Appeals for the Sixth Circuit Denying Rehearing, March 1, 2007 ..... 1a

Appendix B - Opinion of the United States Court of Appeals for the Sixth Circuit, November 14, 2006 ..... 3a

Appendix C - Order and Memorandum Opinion of the United States District Court for the Middle District of Tennessee, January 6, 2005 ..... 11a

The following has been omitted in printing this joint appendix because it appears on the following pages in the appendix to the Brief in Opposition:

Fact Finding Report 8-17

RELEVANT DOCKET ENTRIES

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

05-5258

12/22/2006 LETTER SENT by blh to Francis H. Young for Appellee Metro Govt notifying that he is directed to respond to a petition for en banc rehearing [3494175-1] filed by Ann Buntin Steiner. Response due by 1/10/07. [05-5258].

01/10/2007 RESPONSE to a petition for en banc rehearing [3494175-1] filed by Ann Buntin Steiner. Response filed by Francis H. Young for Appellee Metro Govt. Certificate of service date 1/9/07. [05-5258]

02/08/2007 MOTION filed for leave to file a statement in support of appellant's petition for rehearing en banc. Motion filed by Gregory A. Gordillo for Natl Employ Lawyers. Certificate of service date 2/7/07. [05-5258]

02/08/2007 TENDERED : statement in support of appellant's petition for rehearing en banc from Gregory A. Gordillo for Natl Employ Lawyers [05-5258]

03/01/2007 ORDER filed granting motion for leave to file a statement as amicus curiae in

support of appellant's petition for rehearing en banc [3532855-1] filed by Gregory A. Gordillo [05-5258]. Entered by order of the court.

03/01/2007 MEMORANDUM IN SUPPORT of appellant's petition for rehearing en banc. Filed by Gregory A. Gordillo for Amicus Curiae Natl Employ Lawyers. Certificate of service date 2/7/07. [05-5258]

03/01/2007 ORDER filed denying petition for en banc rehearing [3494175-1] filed by Ann Buntin Steiner [05-5258]. Danny J. Boggs, Martha C. Daughtrey, Circuit Judges; Richard Mills, District Judge.

03/15/2007 MANDATE ISSUED with no cost taxed [05-5258]

06/07/2007 U.S. Supreme Court notice filed regarding petition for writ of certiorari filed by Appellant Vicky S. Crawford. Filed in the Supreme Court on 05-30-07, Supreme Ct. case number: 06-1595. [05-5258]

01/22/2008 U.S. Supreme Court letter filed granting petition certiorari petition [3599401-2] filed by Vicky S. Crawford. Supreme Court Action 1 Disposition Date: 01/08/2008, Supreme Court Case Number: 06-1595.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
(NASHVILLE)

CASE # 3:03-cv-00996

Date	Docket #	Description
10/24/2003	1	COMPLAINT (Summons(es) issued) Filing fee paid in the amount of: 150.00 Receipt # 95011 (w/attachment) (ot) (Entered: 10/28/2003)
11/06/2003	8	AMENDED COMPLAINT [1-1] by pltf; jury demand (gi) (Entered: 11/07/2003)
11/18/2003	9	ANSWER by defts Metropolitan Gov and Pedro Garcia to [1-1] and [8-1]; jury demand (km) (Entered: 11/18/2003)
11/26/2003	10	MOTION by deft Gene Hughes to dismiss (km) (Entered: 12/01/2003)
11/26/2003	11	MEMORANDUM by deft Gene Hughes in support of motion to dismiss [10-1] (km) (Entered: 12/01/2003)
12/23/2003	12	ORDER by Judge Todd J. Campbell: Deft Hughes' motion to dismiss [10-1] is

		granted, & all claims against Dr. Gene Hughes are dismissed. EOD 12/23/03 (cc: all counsel) (dlt) (Entered: 12/23/2003)
12/29/2003	13	MOTION by defts for partial dismissal (w/attached exhibits A-C) (gi) (Entered: 12/30/2003)
12/29/2003	14	MEMORANDUM by defts in support of motion for partial dismissal [13-1] (w/attachment) (gi) (Entered: 12/30/2003)
01/09/2004		PROPOSED Initial Case Management Order (km) (Entered: 01/12/2004)
01/12/2004	15	MOTION by pltf Vicky S. Crawford to reconsider deft's motion to dismiss Gene Hughes as a party deft (w/attached exhibits 1-4) (km) (Entered: 01/13/2004)
01/15/2004	18	RESPONSE by deft Gene Hughes to motion to reconsider deft's motion to dismiss Gene Hughes as a party deft [15-1] (km) (Entered: 01/15/2004)
01/16/2004	19	RESPONSE by pltf Vicky S. Crawford to motion for partial

		dismissal [13-1] (w/attached exhibits 1-6) (km) (Entered: 01/20/2004)
01/23/2004	20	REPLY by defts Metropolitan Gov and Pedro Garcia to response to motion for partial dismissal [13-1] (km) (Entered: 01/26/2004)
04/06/2004	23	MEMORANDUM OF THE COURT: (EOD 4/6/04) (cc: all counsel) (km) (Entered: 04/06/2004)
04/06/2004	24	ORDER by Judge Todd J. Campbell: For the reasons stated in the accompanying Memorandum, defts' motion for partial dismissal [13-1] is granted and pltf's motion to reconsider [15-1] is denied. Pltf claims against deft Garcia and Pltf's sexual harassment claims are dismissed. The remaining claims are pltf's Title VII and THRA retaliation claim against Metro and pltf's Whistleblower Act claim against Metro. terminating party Pedro Garcia. (EOD 4/6/04) (cc: all counsel) (km) (Entered: 04/06/2004)

11/29/2004	51	MOTION by deft Metropolitan Gov for summary judgment (w/attachments) (km) (Entered: 11/30/2004)
11/29/2004	52	MEMORANDUM by deft in support of motion for summary judgment [51-1] (w/attachment) (km) (Entered: 11/30/2004)
11/29/2004	53	STATEMENT of material facts not in dispute by deft in support of [51-1] (km) (Entered: 11/30/2004)
11/29/2004	54	NOTICE by deft Metropolitan Gov of filing exhibits in support of deft's motion for summary judgment (w/attached Volume 1 (A-I) and Volume 2 (J-S) (km) (Entered: 11/30/2004)
11/29/2004	55	AFFIDAVIT of Kimberly N. McDoniel re [51-1] (km) (Entered: 11/30/2004)
12/22/2004	58	BRIEF IN RESPONSE by pltf to motion for summary judgment [51-1] (w/attached exhibits 1-29) (km) (Entered: 12/23/2004)

12/22/2004	59	AFFIDAVIT of Donna Elaine Rice re [58-1] (km) (Entered: 12/23/2004)
12/22/2004	60	AFFIDAVIT of Tammy Daniels re [58-1] (km) (Entered: 12/23/2004)
12/22/2004	61	RESPONSE by pltf to deft's stmt [53-1] (km) (Entered: 12/23/2004)
12/22/2004	62	STATEMENT of additional material facts by pltf in support of [58-1] (km) (Entered: 12/23/2004)
01/03/2004	64	NOTICE by deft of filing additional exhibit in support of deft's motion for summary judgment (w/attached exhibit T) (km) (Entered: 01/04/2005)
01/03/2004	65	ORDER by Judge Todd J. Campbell granting motion for an extension of time until 1/10/05 in which to file a reply [63-1]. (EOD 1/4/05) (cc: all counsel) (km) (Entered: 01/04/2005)
01/05/2005	66	MEMORANDUM OF THE COURT: (EOD 1/6/05) (cc: all counsel) (km) (Entered: 01/06/2005)

01/05/2005	67	ORDER by Judge Todd J. Campbell: For the reasons stated in the accompanying memorandum, deft's motion for summary judgment [51-1] is granted and this action is dismissed; terminating case. , Jury trial set for 5/3/05 and pretrial conference set for 4/25/05 are canceled. (EOD 1/6/05) (cc: all counsel) (km) (Entered: 01/06/2005)
01/14/2005	68	NOTICE by pltf of filing the affidavit of Vicky S. Crawford (km) (Entered: 01/14/2005)
01/14/2005	69	AFFIDAVIT of Vicky S. Crawford re [68-1] (km) (Entered: 01/14/2005)
01/26/2005	70	NOTICE OF APPEAL by pltf Vicky S. Crawford from Dist. Court decision [67-3] (mk) (Entered: 01/27/2005)
11/16/2006	85	INFORMATION COPY from 6CCA as to Notice of Appeal [70] that the district court's grant of summary judgment is affirmed. (km,) (Entered: 11/17/2006)
03/20/2007	86	MANDATE of USCA as to [70] Notice of Appeal filed by Vicky S. Crawford, that the district

		court's decision is affirmed. (km,) (Entered: 03/20/2007)
06/14/2007	87	NOTICE from US Supreme Court that the petition for a writ of certiorari was filed on 5/30/07 and placed on the docket 6/1/07 as No. 06-1595. (km,) (Entered: 06/14/2007)
01/28/2008	88	NOTICE from US Supreme Court that the petition for a writ of certiorari is granted. The brief of petitioner is to be filed on or before 2/25/08. The brief of the respondent is to be filed on or before 3/24/08. A reply brief, if any, is to be filed in accordance with Rule 25.3 of the Rules of this Court. (km) (Entered: 01/28/2008)

IN THE UNITED STATES DISTRICT COURT
FOR TENNESSEE
FOR THE MIDDLE DISTRICT
NASHVILLE DIVISION

No. 3:03-0996

[Dated December 21, 2004]

VICKY S. CRAWFORD,	)
	)
Plaintiff,	)
	)
v.	)
	)
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, DR. GENE HUGHES AND DR. PEDRO GARCIA	)
	)
Defendants.	)

STATE OF TENNESSEE)

COUNTY OF DAVIDSON)

AFFIDAVIT OF VICKY S. CRAWFORD

I, Vicky S. Crawford, after being duly sworn in accordance with law do hereby swear and affirm that the foregoing information is true and accurate to the best of my personal knowledge, information and belief.

1. I am Vicky S. Crawford. I was employed by The Metropolitan Government of Nashville and Davidson County, Tennessee for over 30 years. I started out as a receptionist in food services. I was promoted to Payroll Clerk in approximately 1975 and held this position for three years. Then I was promoted to Payroll Coordinator. This was my position when I was fired. I always received good evaluations through out the course of my employment with Metro.

* * *

3. In the Fall of 2001, the Metropolitan School Board (hereinafter the Board) hired Dr. Pedro Garcia (hereinafter Garcia) to be the new Director of Schools. During Garcia's administration, Dr. Pedro Garcia brought in as part of his administration Gene Hughes and appointed him the Director of Employee Relations for The Metropolitan Nashville Public School System.

4. In approximately May of 2002, Jennifer Bozeman, an attorney for The Metropolitan Legal Department, contacted the Human Resources Department about a potential sexual harassment complaint with regard to Gene Hughes, the Director of Employee Relations for The Metropolitan Nashville Public School System.

5. Because Gene Hughes was responsible for EEOC investigations, including complaints of sexual harassment, this sexual harassment complaint with regard to Gene Hughes was brought to the attention of Dr. Pedro Garcia.

6. In the course of this investigation, the officials at Metro contacted me about Gene Hughes and I was told by Veronica Frazier that she was conducting a sexual harassment investigation and needed to speak with me. On July 22, 2002, I showed up at the legal department for Metro as requested and Veronica Frazier and Kim Barwise questioned me about whether or not I had any information with regard to inappropriate physical conduct or inappropriate behavior on behalf of Gene Hughes.

7. I knew immediately that he was the one being investigated for sexual harassment. I told the investigators that Gene Hughes sexually harassed myself and other employees. I informed them that he had asked to see "my titties" on numerous occasions. I would state Hey Dr. Hughes what's up and he would grab his crotch and state "You know what's up". He would approach my window and put his crotch up to the window and asked to see my titties all at the same time. I told him "No, Dr Garcia wouldn't like that" and he told me "You don't know he just might". One time Gene Hughes came in my office and I asked him what I could do for him and he grabbed my head and pulled it to his crotch. I pushed him away and told him to get the hell out of my office. I told Tamera Sadler and Dianne Proffitt of these actions. I believed that I was exercising my rights under Federal law when I informed Veronica Frazier of this. I informed both Veronica Frazier and Kim Barwise that Gene Hughes had sexually harassed me and other employees. When I made these statements to Veronica Frazier and Kim Barwise, I was opposing the illegal actions of Gene Hughes.

8. It is my understanding that other witnesses informed Metro of other inappropriate words and conduct by Gene Hughes.

9. Upon completing the investigation Metro did conclude that Gene Hughes did participate in inappropriate and unprofessional behavior.

10. On September 13, 2002, Veronica Frazier and Delaine Barwise sent a fact finding report to Pedro Garcia. In the fact finding report it was noted that more than one witness referenced their perception of Mr. Hughes' arrogance and penchant for grabbing his crotch.

11. It was also determined that two of the witnesses were "especially fearful about loss of their job. The witness's apprehension about participating in this investigation was greater than fact finders would reasonably expect." I was identified on the first page of the report as being one of nine employees interviewed. This list of nine included Gene Hughes.

12. After fully cooperating with The Metropolitan Government's investigation of Gene Hughes, on November 6, 2002, I was placed on administrative leave from my job with Metro stating that Metro was investigating whether or not I had embezzled money from the district. I had not embezzled any money from the district.

* * *

18. On December 12, 2002, an appeals hearing was held with regard to my termination. In that

hearing my counsel told Chris Hensen that I testified against Dr. Hughes in terms of sexual harassment. My attorney told Chris Hensen that Metro rather than firing Gene Hughes walked in and fired the four women who complained about Gene Hughes. Chris Hensen was told that the charges against me were trumped up by whomever in retaliation. Additionally, Chris Hensen was provided a copy of the sexual harassment investigation fact finding report.

At this hearing, I did not have access to any of the computer files or the "void and see" files nor any of the paperwork which would have allowed me to clearly testify to Metro as to the status of the checks which Metro claims I failed to process.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR TENNESSEE
FOR THE MIDDLE DISTRICT
NASHVILLE DIVISION

CASE NO. 3:03-0996

[Dated July 1, 2004]

VICKY S. CRAWFORD	)
	)
Plaintiff,	)
	)
vs.	)
	)
THE METROPOLITAN GOVERNMENT OF NASHVILLE and DAVIDSON COUNTY, TENNESSEE, DR. GENE HUGHES and DR. PEDRO GARCIA,	)
	)
Defendants.	)

Deposition of :
VICKY S. CRAWFORD
July 1, 2004

Debra R. Carney, CCR, RPR
ACCURATE COURT REPORTING
Fall School Business Center
1130 Eighth Avenue South, Suite 400
Nashville, TN 37203
(615) 244-3376 or 244-DEPO

* * *

[p. 11]

* * *

Q. So that's how you first met Gene Hughes?

A. Yes.

Q. All right. Tell me about your dealings with him. I mean, how did you find dealing with him?

A. I felt very uncomfortable around Mr. Hughes.

Q. From the get-go?

A. Yes.

Q. Okay.

A. He was very arrogant, and he always -- whenever I would speak to him, he would grab himself. He would grab his crouch.

[p. 12]

Q. Whenever you would speak to him?

A. I would say, "what's up?"

Q. Wait. This is from the beginning?

A. Yes.

Q. From the first time you met him?

A. As far as in the hallways, yes.

Q. So --

A. Yes.

Q. From your first interaction -- the first time you met Gene Hughes, he grabbed his crouch?

A. Yes.

Q. Okay. Do you recall where you were when this happened?

A. In the hallway outside his office.

Q. Who else was there?

A. The receptionist at the front desk was sitting there.

Q. Who is that?

A. Who was that?

Q. Yeah.

A. As far as -- Judy Lowe is her name.

Q. L-O-W-E?

A. L-O-W-E.

Q. Do you recall the conversation leading up to that incident?

[p. 13]

A. No. It was just -- it would be a matter of me seeing him, speaking to him, and whenever I would say, "what's up," he would always grab his crouch an would respond, "You know what's up."

Q. Okay. And this happened as early as August 2001 when you first met him?

A. Yes.

Q. How else -- tell me what else he did during your interactions with him.

A. There was times that he -- I had a window in my office, and he would come up to my window.

Q. From the outside?

A. Yes.

Q. Because you were on the first floor?

A. Yes. And he would knock on the window and would press his crouch to the window.

Q. Okay.

A. Times he would come to my window and ask to see -- he would say, "Let me see your titties."

Q. Okay.

A. There was another incident where he came into my office, and I asked him what I could do to help him, and he grabbed my head to his crouch and said, "You can help me this way."

Q. Okay.

[p. 14]

A. After that, I didn't have any other interaction with him at all.

Q. All right. The time period that we're talking about that you just described all these incidences, you would say would stretch from August 2001 until when?

A. To May 2002.

Q. How are you able to put that May 2002 date on it?

A. Because that's when I returned from my -- I had been out on sick leave, and he came down to my office to see how I was feeling when it happened. That's how I can remember it, because I had just returned from a hospital visit.

Q. The pulling-your-head-to-his-crouch incident?

A. Yes.

Q. Okay. So your testimony is -- how long from you out on sick leave prior to May 2002?

A. I was out all the month of April and most of the month of May.

Q. Six, seven, eight weeks?

A. Yes.

Q. So after not being in the office and not seeing Gene Hughes for six, seven, or eight weeks, he comes down to your office to see how you're doing?

A. Yes.

[p. 15]

Q. And then pulls your head down to his crouch?

A. Yes.

Q. How did you react.

A. Told him -- pushed him away and told him to get the hell out of my office.

Q. And then you didn't have any other interactions with him after May of 2002?

A. No, sir.

Q. Who did you report that to?

A. No one.

Q. Why?

A. He is in charge of the office that would -- I would normally go to, employee relations.

Q. All right. Well, you're a long-time employee of the school system. Right?

A. Yes.

Q. Your understanding was, the only place you could make a report of that conduct to would be to Gene Hughes?

A. To employee relations office, yes, sir.

* * *

[p. 19]

* * *

Q. So do you recall the date you went to talk to Delaine Linville and Veronica Fraizer?

A. Not the actual date. It was in the month of July.

Q. Right. Have you ever seen their notes on your meeting?

[p. 20]

A. Yes. I've seen this before.

Q. Do you agree with me there's a date of July 22, 2002 up there?

A. Yes.

Q. Would you agree with me that that would be the date that you met with Veronica and Delaine?

A. Yes.

Q. I'm not going to ask you any more questions about that. I was trying to nail down the date.

So tell me what happened at this meeting. I mean, did you know what you were going to meet with them for before you went there?

A. No, sir.

Q. Did you know there was an investigation of Gene Hughes before you went there?

A. No, sir.

Q. Okay. So you went there not knowing what to expect, really?

A. That's correct.

Q. So tell me how they started the conversation.

A. They asked what my job was. They asked what -- where my office was. They asked who I normally dealt with on a daily basis as far as the different departments and why I would have to work with that individual department. Then they asked me my -- where my office was in

[p. 21]

relationship to Mr. Hughes' office, what I had to do -- how my office interacted with his office. And then they asked if I had -- if he had ever, as far as inappropriate behavior, conducted himself in an inappropriate way.

Q. All right. And then -- you tell me if I'm putting words in your mouth, but then you told them the things that you told us about 15 minutes ago here in this deposition?

A. That's correct.

Q. The various instances of inappropriate conduct by Mr. Hughes?

A. That's correct.

Q. All right. Were you afraid of losing your job by telling them that?

A. Yes.

Q. Why?

A. Because of the relationship that Mr. Hughes had with Dr. Garcia.

Q. What relationship is that?

A. As far as it was common knowledge that they were very good friends and that I felt like that if I testified against him, that I would lose my job.

* * *

[p. 23]

* * *

Q. Would you agree with me that the individual witnesses in terms of what they said, what each witness said is not -- that these witnesses are not named in the report itself?

A. That's correct.

Q. So while the contents of what the witnesses said was summarized, the identity of what each witness supposedly said does not appear in this report. Do you agree?

[p. 24]

A. I agree.

MR. YOUNG: All right. First, I'd move this in as the first exhibit.

(Fact Finding Report marked Exhibit 1 to this deposition.)

Q. (By Mr. Young) Now, what day were you put on administrative suspension with pay?

A. November 6th, 2002.

Q. And it's your contention in this lawsuit that you were placed on administrative suspension without pay

in November of 2002 and ultimately terminated, I believe on January 6th of 2003?

A. That's correct.

Q. Because of the statements you gave to Veronica and Delaine on July 22, 2002. Right?

A. Yes.

Q. How do you know that what you told Veronica and Delaine on July 22 was ever communicated to Chris Henson or Dr. Garcia?

A. Would you repeat that?

Q. How do you know that what you told Veronica and Delaine Linville on July 22 was communicated to Chris Henson or Dr. Garcia?

A. I don't know that it was communicated. I do know that I was -- had not been -- my work performance had

[p. 25]

not been questioned or I had not been reprimanded for any mishandling of payroll issues until after the report was released.

Q. All right. But you don't know that Veronica or Delaine told Dr. Garcia or Chris Henson that you, Vicky Crawford, said specific things that are mentioned in this report. Correct?

A. I don't know that.

Q. So your theory is that because you made these statements on July 22, you were placed on administrative suspension on November 6th and ultimately terminated on February 6th, 2003. Right?

A. Yes.

Q. And you're assuming that because you had never -- you contend you never had any problems with your work performance prior to the November 6th letter or the November 6th administrative suspension. Right?

A. Right.

Q. What other evidence do you have to support your theory that your statements on July 22 to these two investigators resulted in you being suspended and ultimately terminated?

A. Because I was -- they investigated the three of us that testified against Mr. Hughes. Metro investigated us after our testimony, and that's when they started the

[p. 26]

auditing and investigation in the payroll department.

Q. Okay. And so you think it's more than a coincidence?

A. I sure do.

Q. Why?

A. Because I hadn't been investigated for any allegations of mishandling of payroll or checks in any way until after the report came out.

Q. How did Chris Henson or Dr. Garcia know that it was you who made negative statements about Mr. Hughes in your July 22nd interview?

A. I don't know how. They would have been told by Veronica Fraizer.

Q. You're assuming that?

A. Yes.

Q. But you just testified a few minutes ago that you have no proof that Veronica Fraizer --

A. That's right. I have no proof.

MS. STEINER: I'm going to object to the use of the term "proof." She has no actual knowledge of a discussion. I believe that's what she meant as opposed to proof.

MR. YOUNG: Are you finished?

MS. STEINER: Yes.

Q. (By Mr. Young) Well, your attorney just said

[p. 27]

that you have no actual knowledge of the discussion. You don't know if there ever was a discussion between

Veronica, Delaine and Chris Henson and Dr. Garcia about what you told Veronica and Delaine, do you?

A. That's right.

* * *

[p. 51]

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

I, DEBRA R. CARNEY, Registered Professional Reporter, Court Reporter and Notary Public in and for the State of Tennessee at Large,

DO HEREBY CERTIFY that the foregoing proceedings were taken at the time and place set forth in the caption thereof; that the witness therein was duly sworn on oath to testify the truth; that the proceedings were stenographically reported by me in the shorthand; and that the foregoing proceedings constitute a true and correct transcript of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties hereto, nor a relative or employee of such attorney or counsel, nor do I have any interest in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official seal and signature this 9th day of July, 2004, at Nashville, Davidson County, Tennessee.

/s/ _____
Debra R. Carney, CCR, RPR
Notary Public at Large
State of Tennessee
My Commission Expires: November 25, 2006

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

Case No. 3:03-0587

[Dated April 28, 2004]

DIANNE B. PROFFITT,	)
	)
Plaintiff,	)
	)
Vs.	)
	)
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, et al.,	)
	)
Defendants.	)

Deposition of :

VERONICA THOMPSON FRAZIER

Taken on behalf of the Plaintiff
April 28, 2004

SARAH N. LINDER
Elite Reporting Services
P.O. Box 292382
Nashville, TN 37229
(615) 595-0073

* * *

[p. 5]

* * *

VERONICA THOMPSON FRAZIER,

was called as a witness, and having: first been duly sworn testifies as follows:

DIRECT EXAMINATION

QUESTIONS BY MS. STEINER:

Q. Could you please state your full name for the record.

A. Veronica Frazier.

Q. And do you have a middle --

A. T.

Q. T?

A. Uh-huh. Thompson. Veronica Thompson Frazier.

Q. It's my understanding you work for Metro; is that correct?

A. That's correct.

Q. What is your position with Metro?

A. Assistant director of human resources.

Q. And how long have you held that position?

A. I'd have to stop and look, I'm not sure. It's going on two years.

Q. Two years. And what -- who promoted you to that position?

A. Billy Lynch. He's now the director of public

[p. 6]

works, but he was the director of human resources.

Q. How long have you be[illegible]n with Metro?

A. Since September 16th, 1994.

Q. And do you have any plans of leaving Metro in the near future?

A. No.

Q. What is your home address?

A. 713-A Crescent Road.

Q. Is that in Nashville?

A. That's correct.

Q. Now, as the assistant director of human resources are you responsible for investigating complaints of discrimination at Metro?

A. Yes.

Q. When you investigate those complaints, is there a procedure that you follow?

A. Yes.

Q. What is it?

A. Depending on where we get the complaint from, whether it's an employee or manager, we interview the employer, try to ascertain exactly what is the nature of the complaint. Some complaints don't rise to the level of an EEO investigation and some do. Those that do, we get the pertinent information from the employee including the list of individuals that we'll need to interview. We -- at

[p. 7]

that point we let the department head know that we're going to be doing an investigation and that we will be interviewing individuals within their department. And we need a contact person because we don't want to disrupt their workplace and to let their supervisor know that we will be interviewing them. And we set up a schedule and begin a process.

Q. Okay. Now, when you set up the schedule, do you let the person that they're complaining about know the nature of the complaint?

A. No.

Q. You don't?

A. We let them -- well, we won't -- we'll let them know that we have a complaint that is an EEO complaint. And generally folks know that because if they're getting a call from me, doing an investigation. But I don't go into any specifics of the complaint. In fact, when folks come in, I have people come in that they really don't know why -- exactly why they're there because it's -- it's not to blind side folks, but it's to keep a very objective forum as we try and discuss the complaint.

Q. When you discuss the complaint with them, do you let the complaining party know the specifics of the complaint?

A. No. At that time?

[p. 8]

MR. SAFLEY: That question didn't make sense.

BY MS. STEINER:

Q. Do you let -- the party that's being complained against, do you let them know the specifics of the complaint when you're conducting your interview with them?

A. To follow-up with them -- the person -- let me get this straight with you. Say, the alleged perpetrator -- do we keep the alleged perpetrator informed?

Q. Yes.

A. No. I mean, no.

Q. So then if you've got a complaint against someone when you're conducting your investigation, you never sit down and let that person know the specifics of the complaint against them?

A. They know there's a complaint but not the specifics, no.

Q. Do you ever question them about whether or not they engaged in the conduct as alleged --

A. We interview the perpetrator, yeah. As part of the investigation, we interview the alleged perpetrator; there may be several. Yeah, absolutely we interview them and ask questions, certainly.

Q. So when you interview --

A. Otherwise, we couldn't do an investigation.

Q. Sure. That's what I'm saying. When you interview

[p. 9]

the alleged perpetrator, do you let them know the nature of the complaint against them in terms of someone said you did X, Y, and Z?

A. We won't say the person's name. I stick to behaviors, have you ever said, have you ever done, have you ever conducted.

Q. Okay.

A. And I'll be very specific about those -- the language, the statements, the behaviors.

Q. And why do you not give specific names?

A. Because what we're trying to find out -- well, I give specific names to try and keep some anonymity about the folks who are complaining during the course of the investigation. What I try to do is maintain the integrity of the investigative process. And sometimes I don't know what folks are going to do.

I mean, this is -- you know, we are the first recourse and I don't want folks discussing this in their workplace. I don't want them going back having conversations about what went on in and investigate during the discussions that we had, so I keep names out of it. And that way when I try to corroborate, when we look back at testimony and try to corroborate statements that had been, then there's kind of a blank slate there; this person said this, this person said that and no we never use names

[p. 10]

during. What they would corroborate is the statements that were made or the behavior that was made.

Q. Now, if someone complains to you that a specific manager engaged in certain statements and you ask that manager, did you engage in those statement, is it a fair statement that you would -- if the manager did engage in those statements that then manager would know who he said those statements to?

A. Absolutely, I think. I mean, if, indeed, that happen, he would know.

Q. So then even though you try to keep everything anonymous, is it a fair statement that if the party who was the alleged perpetrator actually engaged in activities that you would know that he would know who made the complaint against him?

A. Yeah. I think that certainly can happen during an the course of an investigation, yeah. I mean, common sense would dictate that; were you on the second floor -- whatever it may be. Were you on the second floor in so and so's office in the building and the person will think, well, the only person I was ever in that room with was -- certainly common sense would dictate that.

Q. Okay. Now, on top of that, it looks like you also do these fact finding reports. Do you do that all the time?

[p. 11]

A. That's one of my assignments. I don't do it all the time.

Q. When you do the fact finding report, who gets a copy of those reports?

A. The department head gets a copy of that report and the complainant, the alleged perpetrator. But what we like to do is let the department head distribute those reports and discussions with the employees within his department.

Q. So then when you give out these fact finding reports, it's being passed out with the emphasis that the department head will sit down and speak to the involved parties?

A. Uh-huh.

Q. Is that a yes for a record?

A. That's yes. Yes. I'm sorry.

Q. Now, also too when you're investigating these complaints of discrimination, were you aware that the law prohibits retaliation?

A. And I advise client -- I don't have clients. I advise employees that retaliation is prohibited because that's often -- it is usual for employees to bring that up to me.

Q. Sure. Now, besides telling the employees that retaliation is illegal, do you tell the alleged harassers that they cannot engage in retaliation?

[p. 12]

A. Absolutely, every single time.

Q. And also, it looks like you send letters as well, don't you?

A. Uh- huh.

Q. Is that a yes?

A. Yes, I do. Yes, I do.

Q. And is it your procedure to send a letter to all parties involved that there can be no retaliation?

A. If I don' t send a letter, we'll make it verbal or we'll have an e-mail that will say that.

Q. What makes you decide as to whether or not it's verbal, or e-mail, or letter?

A. I may be -- well, I may be directly communicating with the department head; the request may come from them. And I'll say, remember as we go forward with this investigation -- but that is something that I am really adamant about, be careful, retaliation is an issue, you may feel like -- whatever. I make sure.

Q. And it sounds like you inform the department head and the supervisor that they cannot retaliate against the people who have made the complaint, correct?

A. The person's -- the individual's direct supervisor?

Q. Yes.

A. Now, I may not have direct conversation with that supervisor every single time, but I let management in that

[p. 13]

department know, whether it be the department head, division manager, and it may be the supervisor, but folks are made aware, absolutely.

Q. And is it a fair statement, too, that you let the department head know that he's supposed to pass on the message to the supervisors that there can be no retaliation?

A. Certainly.

Q. And so then the department head would tell the supervisor who would tell the alleged harasser that they cannot engage in any retaliation?

A. Right.

Q. And that's done from the word go when the investigation first begins?

A. Absolutely.

Q. So then is it a fair then that the department head, supervisor, and the alleged harasser know the individuals who have made the complaint and know that they cannot retaliate against those individuals?

A. That's a fair statement and that's something that I advise. Now, can I absolutely have 100 percent confidence, I'd like to but . . .

Q. And that's a procedure that you use at Metro?

A. Yeah. Absolutely.

* * *

[p. 25]

* * *

Q. Now, what was the next step that you took in doing this investigation?

A. I met with -- talked with Jennifer. I can't remember whether we met face to face or talked to get some of the particulars. And then we met with Dr. Garcia and that's where I gave my comments and observations about retaliatory actions. We also advised that Mr. Hughes be removed from doing any sexual harassment investigations because it was -- one was being conducted about him. We thought that would be an inappropriate way to proceed.

Let me see. And how we would set up -- contact folks. If memory serves me, there was some difficultly because it was summer and folks were on vacation because we

[p. 26]

had some lapses trying to set up interviews with folks, so we were contacting folks directly. And I think we had some conversations because we always ask may we contact folks directly or do we need to go through -- so here we contacted folks directly, I believe.

Q. Now, in the initial conversation with Dr. Garcia, did you go to his office or was that over the telephone?

A. We were in his office.

Q. And that's the one where you gave your typical speech -- excuse me, not speech. But you made your typical statements about how you cannot retaliate against these individuals who had complained?

A. Right.

Q. And so at that point, did you tell them the names of the specific individuals?

A. No, I don't believe we talked about -- I don't remember if we talked about specific -- I'm trying to recall. We had -- we had -- Tamara Saddler is a name that comes to my mind, Dianne, and there were some other folks, but employees in HR. And I can't remember when we made it clear to Dr. Garcia that these -- these complaining employees -- I used the term it may feel like these folks are holding your workplace hostage, and in a way they are, but you must be careful and not proceed with actions that could be perceived as retaliatory.

[p. 27]

Q. Okay.

A. And I'm sorry about my recollection of this but it's just been too long ago.

Q. That's fine. But you do know that Ms. Saddler was one of the employees?

A. Ms. Saddler, Dianne Proffitt. And I'd have to go back, I don't have the folder in front of me.

Q. What about Vicky Crawford?

A. I'm not sure when we got Vicky Crawford's name.

Q. Okay. So her name could have come into the picture a little bit after the --

A. After, uh-huh.

Q. -- first meeting? But at the first meeting, thought, you can recall --

A. I can recall Ms. Saddler. I don't want to say a hundred percent Dianne Proffitt. I'm not certain there. I'm not trusting my memory right now.

Q. Okay. Is it a fair statement, though, that when you found out the names of the other people who were involved in this, you told them likewise you cannot retaliate?

A. I don't know if we went over every specific individual but we said those folks who participate in the investigation should not, again -- should be able to go forward without fear of retaliation?

* * *

[p. 48]

* * *

Q. Can you tell me the date that you interviewed

[p. 49]

Dianne Proffitt?

A. I have on here 6/24, 2:00 p.m., so assuming that there wasn't a cancellation, that this was the date I interviewed her and the time I interviewed her.

Q. Do you know whether or not Ms. Proffitt informed you of any inappropriate conduct by Dr. Hughes?

A. I recall that she did.

Q. And do you recall what she informed you of?

A. I'd need to go back and look through the file. But if I remember correctly -- well, her specific complaints, I'm not sure. In general, the complaints she had about Dr. Hughes was his language. And I can't pinpoint which witness said what about him, but his inappropriate remarks, that he would grab his crotch. I remember statements like, I want to say, bite me, those sorts of things. And I'm not sure which ones specifically Ms. Proffitt made but she clearly had some.

Q. Okay. I want to ask you about some of the people listed in the fact-finding report. Jennifer Bozeman, did you interview her?

A. She was the first person who gave me -- essentially, it was the information that had been brought to her attention.

Q. Did she make any complaints about Gene Hughes to you?

[p. 50]

A. Huh-uh, no.

Q. Did she make any complaints about Gene Hughes being difficult to work with?

A. I don't recall.

Q. Now, Diane Burden, do you recall interviewing her?

A. Yeah, I do.

Q. Did she make any complaints about Gene Hughes?

A. I'd have to go back and look at my notes. But what I do recall Ms. Burden complaining about, one individual that she complained about was Vicky Crawford.

Q. Okay. Do you recall whether or not Diane Burden made any complaints about Gene Hughes, though?

A. I'd have to look back at my notes.

Q. Do you know why you interviewed Diane Burden?

A. Her name was given to me.

Q. By whom?

A. I can't remember.

Q. Vicky Crawford, do you know whether or not she made any allegations against Gene Hughes?

A. I remember that Vicky did.

Q. What about Jackie Gauthier?

A. I can't even remember who she is. What was her position?

Q. She was his secretary.

A. No, I don't believe she made any.

[p. 51]

Q. What were the nature of Vicky Crawford's remarks?

A. One thing I remember Vicky Crawford stating was they had banter back and forth, Mr. Hughes and Vicky Crawford, that was inappropriate. And Vicky Crawford acknowledged that sometimes she would engage in that as well and Mr. Hughes would in turn have comments. And I believe that may have been the bite me statement and the grab the crotch there.

Q. Okay. Anything else?

A. Nothing that I can recall.

* * *

[p. 79]

* * *

Q. Now, in the second observation that you've got here you said that Dr. Hughes did participate in inappropriate and unprofessional behavior. Does that equate to sexual harassment?

A. No.

Q. How does that compare to sexual harassment?

A. I think there's a big difference between inappropriate and unprofessional behavior. Everybody that participated in -- people who are sexual harassers can -- we have federal laws, we have Title 7, 1964 Civil Rights Act. We don't have federal laws against inappropriate, unprofessional behavior or the federal court system would be jammed for eternity.

Q. Okay. The statements that -- what exactly were the statements that you found that Dr. Hughes actually engaged in?

A. I'd have to go back and review notes. As my best

[p. 80]

recollection, I do remember bite me was one that was an allegation made against him and, that, he even acknowledged. And I do recall the banter between Ms. Crawford and Mr. Hughes being inappropriate, unprofessional for both parties. And there were -- more

than one witness said that he would grab his crotch, which would be clearly inappropriate.

Q. Well, grabbing his crotch, could that also constitute sexual harassment?

A. I think that if -- certainly, there could be circumstances where it could, but I believe Ms. Crawford engaged -- their conversations and their actions, she acknowledged that she would flip him a bird, that she -- it became banter in what was clearly inappropriate, unprofessional. But they had sort of established that is their interaction in workplace culture, if you will. But it did not make it appropriate and it is clearly inappropriate and unprofessional.

Q. What about the witness that claimed Dr. Hughes entered her office and pulled the witness' head into his crotch, could that constitute sexual harassment?

A. Yeah, we never could corroborate that.

Q. Meaning, you only had one witness?

A. Correct.

Q. And Dr. Hughes denied it?

[p. 81]

A. Right. We had no one else who had seen that.

Q. Okay. So then you need two witnesses to corroborate sexual harassment?

MR. SAFLEY: Object to the form.

BY MS. STEINER:

Q. Is that what you were saying?

A. We would not say that the action -- we were doing a fact-finding report and we tried to present the facts; what the witness said happened. And if we couldn't find a corroboration, we would -- it would end up being a he said, she said circumstance.

Q. Okay. Who said that Dr. Hughes did that to her?

A. I don t recall.

Q. Do you know who made the statements when they said hi to him, he grabbed his crotch and stated, I'll tell you what's up? Do you recall who said that?

A. I can't recall. I'm just -- since I can't recall, I have an idea but I can't recall specifically.

Q. Is it a fair statement then, though, that several witnesses did make several different statements of him engaging in conduct, if corroborated, could constitute sexual harassment?

A. If corroborated and if he were the only one engaging in that behavior. But from what we -- our investigation when there are two employees, two co-workers,

[p. 82]

who engage in that inappropriate -- I'll call it inappropriate, unprofessional conduct, they don't consider themselves sexually harassing one another. It becomes part of, as I said, the workplace culture.

* * *

[p. 100]

CERTIFICATE

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, SARAH N. LINDER, court reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of **VERONICA THOMPSON FRAZIER** by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

/s/_____
SARAH N. LINDER
Notary Public at Large
State of Tennessee

My Commission Expires: 3/26/2005

IN THE UNITED STATES DISTRICT COURT FOR TENNESSEE FOR THE MIDDLE DISTRICT NASHVILLE DIVISION

Case No. 3:03-1167

[Dated April 30, 2004]

DIANNE B. PROFFITT,

Plaintiff,

Vs.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE; DR. JULIE WILLIAMS; AND PEDRO GARCIA,

Defendants.

JURY DEMAND
Judge Trauger
Magistrate Judge Brown

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

Case No. 03C-1455

VICKY S. CRAWFORD,

Plaintiff,

Vs.)
)
THE METROPOLITAN GOVERNMENT)
OF NASHVILLE AND DAVIDSON)
COUNTY, TENNESSEE; DR. PEDRO)
GARCIA, AND CHRIS M. HENSEN,)
)
Defendants.)
)

IN THE UNITED STATES DISTRICT COURT FOR TENNESSEE FOR THE MIDDLE DISTRICT NASHVILLE DIVISION

Case No. 3:03-0096

VICKY S. CRAWFORD,)
)
Plaintiff,)
)
vs.)
)
THE METROPOLITAN GOVERNMENT)
OF NASHVILLE AND DAVIDSON)
COUNTY, TENNESSEE; DR. GENE)
HUGHES and DR. PEDRO GARCIA,)
)
Defendants.)
)

JURY DEMAND
Judge Campbell
Magistrate Judge Brown

JA 53

Deposition of:

DR. PEDRO ENRIQUE GARCIA

Taken on behalf of the Plaintiffs
April 30, 2004

ELITE REPORTING SERVICES
MAX CURRY, B.C.R., RPR, CCR, CRI
Bachelor's Degree of Court Reporting
P.O. Box 292382
Nashville, Tennessee 37229
(615) 595-0073

* * *

[p. 64]

* * *

Q. What do you understand about discrimination laws? What's your understanding about the laws?

MS. MARTIN: Object to the form of the question.

BY MS. STEINER:

Q. About the discrimination laws?

A. I know the policy.

Q. What is the policy?

A. For sexual harassment and discrimination?

Q. Yes.

A. You cannot be -- discriminate against another individual. And if it's -- and then it identifies whether it's sexual, et cetera, and it talks about what you do if you're discriminated against and who you go to. You have the four or five choices of who to go to. So it has the stipulation on retaliation.

Q. And what type of discrimination is prohibited?

[p. 65]

What are the areas; do you know?

A. Sexual. There's a number of things listed there.

Q. What are the other areas listed there? Besides sexual, can you tell me any other area that Metro doesn't discriminate?

A. We don't discriminate on race, origin, religion, handicapped condition, et cetera.

Q. Did you know when you took over as Director of Schools that you cannot retaliate against someone for making a charge of discrimination?

A. Absolutely.

Q. Is it a fair statement then that you knew that the individuals that participated in the investigation against Gene Hughes could not be retaliated against?

A. That's correct.

Q. And is it a fair statement that you needed to know the names of the individuals to know who not to retaliate against?

A. I didn't know the names of the individuals that filed the claims against Gene Hughes for sexual harassment until I received the report in, I believe it was September of '02 I think it was.

* * *

[p. 72]

Q. Now, when you first met with her about Gene Hughes, when was this?

A. I do not know. I don't recall.

Q. Do you know whether or not it was May of 2002?

A. It could have been. I do not know.

Q. Did you keep anything on your calendar that would let you know when you first met with Jennifer Bozeman?

A. No.

Q. And so, was the meeting actually in your office?

A. That's correct.

Q. What did she tell you?

A. She told me that there was a concern. That she was concerned because there were allegations of sexual harassment against Gene Hughes, and her concern was that he -- he was the sexual harassment investigator. It would be -- was a major concern.

Q. And did you ask her any questions about the nature of the complaints?

A. No.

Q. Did it give you any concerns that she told you that there were complaints of this nature?

A. Yes. Sure. And she said that she was going to have an investigator, someone else other than Metro legal to investigate it. That's what we always do.

Q. Did she ask you for any input, or was she just

[p. 73]

telling you what was going to be set up?

A. She was telling -- she was telling me what she thought should happen and I agreed.

Q. Okay. Now, and you didn't ask her the specifics of the complaint?

A. No.

Q. Okay. Did she indicate to you the names of any of the parties complaining?

A. No.

Q. Did she mention Dianne Proffitt's name at all in that conversion?

A. No. Not that I recall.

Q. Did you know who Dianne Proffitt was?

A. Not 'til today.

Q. Okay. Did you know whether or not Dianne Proffitt worked under Gene Hughes in the Employee Relations Department?

A. No.

Q. Okay. Now, what procedure did Ms. Bozeman tell you would be set up to investigate this complaint?

A. She was going to have another person do an investigation and then she came in and brought the lady, Veronica, I don't know her name.

Q. Frazier?

A. Yeah, correct.

[p. 74]

Q. And did Ms. Frazier meet with you?

A. Yes, she did.

Q. And when she had the meeting with you, do you recall the date of this meeting?

A. No. It was after my meeting with Jennifer, initial meeting with Jennifer.

Q. Do you recall whether or not it was late May, early June of 2002?

A. No.

Q. Do you have any idea when this meeting was?

A. Where?

Q. When. Do you have any idea when the meeting was?

A. As far as time of the day or --

Q. The date, the actual date?

A. No, I do not.

Q. Would this be on your calendar?

A. I do not keep a calendar. My secretary keeps a calendar. She may be able to go back. I don't know. She may be able to go back in the computer and identify it. My calendar is on the computer.

Q. Okay. Now, when you met with Veronica Frazier, who was present in the meeting?

A. I think it was Jennifer Bozeman, Ms. Frazier, and myself.

Q. And what was said in this meeting?

[p. 75]

A. Just that she was going to investigate it, and she was going to call witnesses and talk to them and then she would give us a report.

Q. And did she tell you in the meeting that you could not retaliate?

A. I do not recall whether that was a conversation or not, but I am aware of -- but I understand the policy, so I understand that you cannot retaliate.

Q. Okay. Did she ever send you a letter stating or an e-mail stating that you cannot retaliate against the individuals that are involved in the investigation?

A. I do not recall whether she did or not.

Q. Okay. And do you recall Ms. Frazier telling you the specific names of the individuals in this meeting?

A. No.

Q. Do you recall the names of Dianne Proffitt, Vicky Crawford, or Tamara Sadler coming up in this meeting?

A. No.

Q. Are you saying that the names did not come up, or you just can't recall whether or not specific names were mentioned?

A. I don't know whether they were brought up or not, because I really didn't know who made the accusation. To my recollection I did not know -- I didn't know who made the accusations until -- I really never knew.

[p. 76]

I made the assumption when I saw the report back in, I think it was like -- whenever it came, September, October. So whenever the report came back, it had the names of witnesses in there, and I assumed that some of those had to have been the people that were -- that made the accusation.

Q. So then, are you saying before the date of the report, you can't recall hearing the specific names of the people who made the accusations?

A. Not officially, no.

Q. Unofficially, did you hear the names of the people that had complained?

A. The only thing that I -- I know is that it was an assumption as to who would have made it.

Q. What was your assumption?

A. My assumption was when I -- I spoke with Gene Hughes right after, and I told him that there was an investigation against him.

Q. Uh-huh.

A. And at that time he indicated that he thought it had to do with Vicky Crawford and Tamara Sadler.

Q. And was this after -- directly after your meeting with Jennifer Bozeman?

A. Yes. And we agreed that I needed to notify him of this investigation, and so I did. I met with him. He came

[p. 77]

to my office and I told him. And he said, "Well, this is a retaliation for my investigating the Sick Bank."

Q. Okay. Now, what investigation did he do of the Sick Bank?

A. I do not know.

Q. Okay. Did he ever tell you before this point that he was investigating the Sick Bank?

A. Yes.

Q. Do you know whether or not he ever showed you any documents showing his investigation of the Sick Bank?

A. No.

Q. What was his allegation about -- strike that.

Why was he investigating the Sick Bank?

A. I -- the only thing that -- he came into my office one day and said that he found -- he had found some things that did not look correct, improprieties. And that he -- I said, "Well, go ahead and investigate it."

Q. And what did he find that were -- that he thought I were improprieties?

A. I never heard.

Q. Okay. When did he come into your office and tell you that?

A. I do not know.

Q. Do you have any written documents going back and forth between you and Gene Hughes or any other department

[p. 78]

at Metro showing that there was an investigation of the Sick Bank?

A. No.

Q. Did you have any follow-up conversations with Gene Hughes about his investigation of the Sick Bank?

A. No.

Q. Do you know whether or not there were ever any improprieties in the Sick Bank?

A. No.

Q. Do you know whether or not Tamara Sadler was even involved with the Sick Bank?

A. The only reason that I would think that Tamara Sadler -- I do not know. I'm only making an assumption. The only reason I would think Tamara Sadler would be involved In the Sick Bank is because Tamara Sadler held the position that Gene Hughes held before he -- before he came on board.

Q. Okay.

A. And I think that the Sick Bank was either managed or supervised by that position. So, I'm making an assumption that if Gene Hughes did it, she must have done it before since she held that position.

Q. Now, did you ever hear any statements from anyone at Metro that Vicky Crawford was untruthful?

A. Untruthful, no.

[p. 79]

Q. What about Dianne Proffitt, did you ever hear any statements that she was untruthful?

A. No.

Q. And Tamara Sadler, did you ever hear any statements that she was untruthful?

A. Untruthful, no.

Q. Or that any of these three individuals had ever misrepresented anything?

A. No.

Q. Okay. Now, when you had the meeting with Jennifer Bozeman in your office, was Gene Hughes present in that meeting?

A. Uh-huh. When?

Q. Yes.

MR. YOUNG: Wait a minute. Hold it. I object to the vagueness of that question.

BY MS. STEINER:

Q. When you had the first meeting with Jennifer Bozeman in your office, was Gene Hughes present?

A. No.

Q. Was he ever present in any meetings you had with Jennifer Bozeman?

A. No.

Q. Did you have any follow-up meetings with Jennifer Bozeman?

[p. 80]

A. About what?

Q. About the investigation of Gene Hughes.

A. No.

Q. Did you request that you be updated as to the results of the investigation?

A. No.

Q. Did you want to be updated as to the results of the investigation?

A. Not updated. I wanted to get final -- the final results of the final findings.

Q. Okay. Did you know that besides Gene Hughes that you were under an obligation not to retaliate against the individuals who made the charge of discrimination?

A. Of course.

Q. And what was your plan about how you wouldn't retaliate? What were you going to do? Did you -- meaning did you --

A. I don't understand what you mean.

Q. Strike that question. It was a bad question anyways.

Did you know Dianne Proffitt before the investigation of Gene Hughes took place?

A. No.

Q. Did you know Vicky Crawford?

A. No.

[p. 81]

Q. Did you know Tamara Sadler?

A. Yes.

Q. How did you know Tamara Sadler?

A. When I -- it had to -- I had met Tamara Sadler when -- when I first came to the district and she was the Director of Employee Relations.

Q. Okay.

A. So, we had a couple investigations that she had done and that's how I learned who she was.

Q. Did you ever have any discussions with her about Amy Collins?

A. Tamara Sadler?

Q. Yes.

A. No.

Q. Okay. Were you able to work well with Tamara Sadler?

A. I didn't work with Tamara Sadler.

Q. Well, the few discussions you had --

A. I never have any discussions. You asked me if I knew who she was, and I said yes, because I knew that she had done the investigations of those cases.

Q. Had you ever then met her before the invitation of Gene Hughes?

A. Yes. Because she had been transferred to work for Faye Goodman, and I went into that office once in a while

[p. 82]

to see Faye Goodman. She was her secretary.

Q. Did you ever have any problems dealing with Tamara Sadler before this investigation of Gene Hughes?

A. No.

Q. Now, did you ask Gene Hughes about whether or not he had engaged in any inappropriate conduct with Vicky Crawford or Tamara Sadler?

A. The only -- the only time that I asked him -- that I spoke with him about sexual harassment charges were after I received the report and I -- and the report showed that he had -- that there was no -- they couldn't -- the accusations could not be corroborated.

But it did also show that he had maybe said things or -- and so at that time he was reprimanded verbally

for whatever his -- whatever -- whatever the report indicated. That he needed to watch his Ps and Qs and how he presented himself with the things that he said.

Q. Who reprimanded him verbally?

A. I did.

Q. Okay. Did you do any notation to his employee file or any other file that he had been reprimanded verbally?

A. No. It was verbal.

Q. What did you tell him verbally?

A. Well, that he -- well, that sexual harassment is -- is not allowed. That you have to watch what you say.

[p. 83]

People may misinterpret or misunderstand what you -- what you say. Sometimes you may be friendly, but you may not -- what you may think is friendly to you may not be what somebody else thinks is friendly, so you have to watch very carefully what you say and do. That sort of thing.

Q. Now, his direct supervisor at that point was Dr. Williams; is that correct?

A. That's correct.

Q. Did you let Dr. Williams know about the oral reprimand?

A. Yes.

Q. And did you let her know why he was being given this oral reprimand?

A. Yes.

Q. Okay. Now, let's back up just a little bit. Back when you had the first discussion with Gene Hughes, the very first discussion about the investigation and he mentioned the name of Vicky Crawford and Tamara Sadler, did you ask him at that point had he done any or made any inappropriate comments or gestures to anyone?

A. No. He indicated himself that he hadn't done anything, and he felt it was a retaliation for the Sick Bank.

Q. Okay.

A. The investigation on his part.

[p. 84]

Q. Okay. Now, did you convey that statement about the problems with the Sick Bank to anyone else?

A. That I do not recall. I do not know whether I spoke with anyone or not. I don't really know.

Q. Now, besides Gene Hughes did anyone else at Metro ever make any statements to you that reflected negatively on Vicky Crawford's job performance?

A. I don't know that Gene Hughes every made any negative statements about Vicky Crawford.

Q. Okay. Did anyone else make ever any negative statements about Vicky Crawford's job performance?

A. I spoke with Chris Henson about -- he spoke with me about issues related to Vicky Crawford.

Q. Did anyone else make any negative statements to you about Vicky Crawford's job performance?

A. Not that I'm aware.

Q. What about Tamara Sadler, did anyone make any negative statements to you about her job performance, outside of Gene Hughes?

A. Gene Hughes never made any negative statements about Tamara Sadler. The only thing that I'm aware of is when Tamara Sadler was moved from the Director of Employee Relations to secretary, I had heard rumors, but it was all hearsay, that she was going to retaliate against Gene Hughes, and she had made the statement, said, "I'm going to

[p. 85]

get that guy for getting my job," or something like that.

Q. Who did you hear that from?

A. I don't know. It was just hearsay.

Q. Can you name one witness who told you that?

A. No. No. It was just hearsay, and I never investigated it. I just heard those comments.

Q. Okay.

* * *

[p. 98]

* * *

Q. Did you set up any procedural safeguards to make sure that Gene Hughes did not have any supervisory authority over Ms. Proffitt, Ms. Sadler, or Ms. Crawford?

MR. YOUNG: And also, I object to the form.

BY MS. STEINER:

Q. You need to answer, Dr. Garcia.

A. I don't think that he was -- I don't believe that he -- I did not set any procedures, but I don't believe that he had any supervisory jurisdiction of any of those three individuals at that time.

Q. Okay. With regard to the Sick Bank, when you knew that he was being investigated for sexual harassment of the individuals that he said he was investigating with regard to the Sick Bank, did you set up any procedures at that point to make sure that any Sick Bank issues would be investigated by someone other than Gene Hughes?

A. No. Because the Sick Bank, he never said who he was -- all that he said was he found irregularities related to the Sick Bank, and at the time --

Oh, you mean when I talked to him about the sexual

[p. 99]

harassment charges?

Q. Yes, sir. Yes, sir.

A. Because he talked to me about the Sick Bank before the sexual harassment was filed.

Q. Sure.

A. All that he indicated was he felt that it was retaliation for the Sick Bank.

Q. Okay. When he told you this in the initial conversation with him about the investigation of him for sexual harassment, did you set up any procedural safeguards at that point to make sure that any investigation with regard to the Sick Bank would be conducted by someone other than Gene Hughes.

A. No. No. But in retrospect I should have maybe gone and talked to whoever the individuals were to make sure they didn't retaliate toward Gene Hughes either.

Q. Okay. Now, did anyone keep up with you with regard to the investigation and how it was going on before you received the final report?

A. No.

Q. Did you speak with any of the individuals at Metro, anyone, Gene Hughes, Tamara Sadler, Vicky Crawford, Diane Burden, Dianne Proffitt, Jennifer Bozeman, Veronica Frazier about that investigation before you actually got the final fact-finding report?

[p. 100]

A. No.

* * *

[p. 125]

* * *

Q. You read this whole report when you got it; is that correct?

A. That's correct.

Q. Did you ask any questions of anyone at that point to find out who exactly was fearful of the loss of their jobs and whether or not you needed to talk to those individuals or you needed to set up procedural safeguards for those individuals?

A. No. Because I never knew who the -- who the accusers were.

* * *

[p. 133]

* * *

Q. Did you have any concerns about the investigation of the Payroll Department maybe being conducted in retaliation for the complaint against Gene Hughes?

A. I -- I never -- I never made the two connections. I think the complaint on the Payroll Department came as a result of the audit that was being done by the -- by the auditors.

Q. Okay. Now, when you got this letter, did you have any discussions with anyone at Metro about whether or not you had -- whether or not --

A. Metro.

Q. -- this internal investigation had anything to do with the investigation against Gene Hughes?

A. Can you state that again?

Q. When you received this letter that you're looking at right now, the September 13th, 2002 letter --

A. I think actually this came with the investigation.

Q. Sure. With the fact-finding report; is that correct?

A. Correct.

[p. 134]

Q. Did you have any discussions with anyone about whether or not the investigation that Metro was going to do into the Payroll Department was in any manner, could be construed as retaliation against the individuals who had complained?

MR. YOUNG: I object to the form of that question.

MS. MARTIN: Object to the form.

THE WITNESS: No. The only thing that I -- the only time that I heard that there was an investigation being done was when Mr. Henson indicated that it was as a result of the audit. That he had asked or somebody had asked for additional outside investigation to look into the audit.

* * *

[p. 161]

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, Roy M. Curry, Jr., court reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of **DR. PEDRO ENRIQUE GARCIA** by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

/s/_____
ROY M. CURRY, JR., B.C. R., RPR, CRI, CCR
Bachelor's Degree of Court Reporting,
Registered Professional Reporter
Certified Reporting Instructor,
Certified Court Reporter, and
Notary Public State of Tennessee At Large

My Commission Expires: 3/27/2005

IN THE UNITED STATES DISTRICT COURT FOR TENNESSEE FOR THE MIDDLE DISTRICT NASHVILLE DIVISION

Case No. 3:03-1167

[Dated March 29, 2004]

DIANNE B. PROFFITT,

Plaintiff,

Vs.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE; DR. JULIE WILLIAMS; AND PEDRO GARCIA,

Defendants.

JURY DEMAND
Judge Trauger
Magistrate Judge Brown

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

Case No. 03C-1455

VICKY S. CRAWFORD,

Plaintiff,

Vs .

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE; DR. PEDRO GARCIA, AND CHRIS M. HENSON,

Defendants.

IN THE UNITED STATES DISTRICT COURT FOR TENNESSEE FOR THE MIDDLE DISTRICT NASHVILLE DIVISION

Case No. 3:03-0096

VICKY S. CRAWFORD,

Plaintiff,

vs.

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE; DR. GENE HUGHES and DR. PEDRO GARCIA,

Defendants.

JURY DEMAND
Judge Campbell
Magistrate Judge Brown

Deposition of:

CHRISTOPHER MASON HENSON

Taken on behalf of the Plaintiffs
March 29, 2004

ELITE REPORTING SERVICES
MAX CURRY, B.C.R., RPR, CCR, CRI
Bachelor's Degree of Court Reporting
P.O. Box 292382
Nashville, Tennessee 37229
(615) 595-0073

[Text of this deposition incorporates Errata Sheet revisions for purposes of this appendix]

* * *

[p. 16]

* * *

Q. Okay. How did you know about the investigation of Dr. Hughes?

A. It was mentioned, but I don't remember the details. And the first time I saw the report from -- whether it be Metro HR or Metro Legal was when you gave me a copy at Ms. Crawford's disciplinary hearing.

Q. When you say, "It was mentioned," who first mentioned it to you?

A. I don't remember.

Q. Do you know whether or not it was Dr. Garcia or Ms. Williams?

A. I don't remember. All of the names were fairly new to me at the time since I had just begun in July. I didn't recognize a lot of the names.

Q. Did you have any job duties with regard to being told that this investigation had been -- was either being

[p. 17]

done or had been completed?

A. No.

Q. Okay. So then, whatever you heard would have been more in terms of just gossip?

A. I don't know if it was gossip. It was just something in passing.

Q. Okay. Before you came to work for Metro, did you know any of the other employees that worked here?

A. I knew Bob Bohnenstiel. I had worked with him in Sumner County.

Q. And how well had you known him?

A. Just a work relationship in Sumner County.

Q. Okay. Was he responsible for any of the finances in Sumner County?

A. Yes.

Q. Okay. And what was his job duty in Sumner County?

A. When -- when I left there, he was -- I think the title was Special Assistant to the Director of Schools.

Q. Okay. Meaning, was his job at Sumner County comparable to that which he did for Metro?

A. It was in as far as his prior assignment in Sumner County.

Q. Okay. And did you know anyone else other than Mr. Bohnenstiel?

A. Edith Jordan.

[p. 18]

Q. What was her position in Metro?

A. She is the Coordinator of Employee Benefits.

Q. Okay. Anyone else?

A. No.

Q. Okay. So, you didn't know Ms. Williams or Dr. Garcia --

A. No.

Q. -- or Gene Hughes before you came to work here?

A. No.

* * *

[p. 21]

* * *

Q. Okay. Now, Ms. Frazier back in 2002, what department did she work in, Veronica Frazier?

A. I don't know who that is.

Q. Okay. So, back in July or the Summer of 2002, Ms. Williams was in charge of the Human Resources Department?

A. Julie Williams?

Q. Yes.

A. Yes.

Q. And Gene Hughes was in charge of Employee Relations?

A. Correct.

Q. Which was a part of Human Resources?

A. Correct.

Q. And then Dr. Garcia, of course, was the -- the Director. So then if it was -- if you had to fire any

employee that worked under you, you would go through Human

[p. 22]

Resources and then you, along with Dr. Garcia and Human Resources, would make a decision about what to do?

A. That would typically be the scenario.

Q. Okay. For the cabinet meetings, do you know whether or not anyone keeps notes?

A. I assume that Julie Waters, Dr. Garcia's executive assistant, keeps notes.

Q. Do you ever have the notes, copies of them sent to you?

A. No.

Q. Do you ever have any sort of written agenda about what's going to be discussed in the cabinet meetings?

A. Yes. It's only come about fairly recently, but we do now.

Q. Back in 2002 did you do that?

A. No.

Q. Okay. Now, where was your office compared to Gene Hughes's office in 2002?

A. My office, they're on separate floors. My office is on the third floor -- I don't know which direction, closest to Berry Road. And Gene Hughes's office was on the second floor close to the front entrance --

Q. Okay.

A. -- of the Bransford Avenue side.

Q. Okay. Did you ever see Gene Hughes engage in any

[p. 23]

sort of conduct or actions that you thought were inappropriate?

A. No.

Q. Have you ever heard him make any remark, any sort of a sexual remark that you thought was inappropriate?

A. No.

Q. Have you ever heard him make any sort of remark about retaliating against people?

A. No. (Respite.)

I had very little interaction with him.

Q. Now, did you have any input into the investigation of sexual harassment that was conducted against Gene Hughes?

A. No.

Q. Did anyone keep you updated as to the results of that investigation?

A. No.

Q. Did you know whether or not employees from your department were being interviewed?

A. No.

Q. Should you have been made aware of the fact that employees from your department were being interviewed?

A. If there were situations where employees were being interviewed, I would at least expect that employee's immediate supervisor to be aware, but I don't know that I

[p. 24]

necessarily needed to be aware of that, if it were something that was on-going when I got here.

Q. Now, when you came to work for Metro in 2002, Mr. Bohnenstiel would have been about the only employee that you knew from your past jobs, correct?

A. And Edith Jordan.

Q. Yeah. And what is your relationship with Mr. Bohnenstiel? Were you friends?

A. No. We had just worked together.

Q. Okay. And where was Mr. Bohnenstiel's office in relationship to your office?

A. It's on another floor, the second floor on the Bransford Avenue side of the building.

Q. Okay. Have you ever had any training in enforcing the discrimination laws?

A. Yes.

Q. Who gave you that training?

A. It was when I was with the Franklin Special School District. I don't know. I can't remember who it was brought in by, our HR Department.

Q. Have you ever had anything like that at Metro?

A. No.

Q. Did you know that it's against the law to retaliate against someone for exercising rights under the discrimination laws?

[p. 25]

A. Yes.

Q. Okay. And did you know that when you were at Franklin?

A. Yes.

Q. Now, if you had one of your employees claim that a supervisor had sexually harassed them for whatever reason and it was -- the complaint was found to have some merit to it, would you watch any action that supervisor takes against that employee?

A. Yes.

MR. YOUNG: I object to the hypothetical nature of that question. Go ahead and answer.

MS. STEINER: He did. Did you get that, Max?

THE REPORTER: (Nodded head affirmatively.)

BY MS. STEINER:

Q. And would you feel that it would be one of your job duties to put up some sort of a -- some sort of a protection to make sure that that supervisor isn't allowed to retaliate against the employee?

MR. YOUNG: I object to the hypothetical nature of that question and the vagueness of it.

BY MS. STEINER:

Q. Answer.

THE WITNESS: Am I supposed to answer?

MR. YOUNG: Yeah, if you can.

[p. 26]

THE WITNESS: It would depend on whether the supervisor was under my jurisdiction or someone else's jurisdiction, but ultimately I would expect the Human Resources procedures and processes that were in place, we would follow those.

BY MS. STEINER:

Q. Okay. If the supervisor was under your authority, would you put some sort of safeguards in place to make sure that that supervisor doesn't retaliate against the employee?

MR. YOUNG: Same objection. Go ahead and answer it, if you can.

THE WITNESS: That would make sense.

BY MS. STEINER:

Q. Okay. So that's a yes?

A. Yes.

* * *

[p. 35]

* * *

Q. Okay. Now, did you know that Diane Proffitt was approached by Veronica Frazier about Gene Hughes?

A. I don't know who Veronica Frazier is.

Q. Did you know that the Human Resources Department at Metro approached Ms. Crawford about Gene Hughes?

A. Not until I got the report you gave me a copy of, no.

Q. Is that something that should have been brought to your attention when it was going on?

A. Like I said earlier, if it were an on-going investigation when I got here I would expect her immediate supervisor to be aware of it, but I wouldn't expect necessarily that I would.

Q. And when did you start with Metro?

A. July 1, 2002.

Q. And who did you replace?

A. John Dietz.

Q. And did you have any sort of meeting with Mr. Dietz to discuss what was on-going?

A. Yeah.

Q. Okay. And did he explain to you the important

[p. 36]

areas that -- that you would have to jump into and work on?

A. Yes.

Q. Okay. And did he tell you anything about any sort of investigation of Hughes?

A. No.

Q. Where is Mr. Dietz today?

A. He moved to Michigan.

* * *

[p. 43]

* * *

Q. Now, it's my understanding that your Payroll Department was audited sometime in the Fall of 2002?

A. All of our finances are audited on an annual basis, required by state law.

Q. Okay. Did you have any special audit performed in the Fall of 2002?

A. I didn't.

Q. Do you know of anyone that did order a special audit of one of your departments in 2002, the fall?

A. I know that Metro Internal Audit requested some additional assistance in the audit -- annual audit in the Fall of 2002.

Q. Okay. And is that when they hired KPMG?

A. No. KPMG are the -- are the external auditors that are under contract with Metro Government to perform that annual audit.

Q. Okay. And was anyone specially hired to perform an

[p. 44]

audit in the Fall of 2002?

A. As I said, I know Metro Internal Audit requested some additional assistance from KPMG in that audit.

Q. And do you know why they requested that?

A. I assume based on findings of the auditors.

Q. Do you know what those findings were?

A. The operational irregularities in the Payroll Department.

Q. Do you know who -- whether or not one individual made the complaint that there were operational irregularities in the Payroll Department?

A. One individual?

Q. Uh-huh.

A. No.

Q. Do you know who made the complaint that there were operational irregularities in the Payroll Department?

A. There were some issues that were brought to my attention that I relayed on to our external auditors that were already out here as part of the annual audit.

Q. Okay. And the problems that were brought to your attention, who brought those to your attention?

A. The three employees in the Payroll Department, other than Ms. Crawford.

Q. Okay. Now, were you aware of Veronica Burns -- Veronica Frazier -- excuse me, Veronica Frazier and the

[p. 45]

Human Resources Department requesting an audit of your Payroll Department?

A. No, I don't -- I don't know who you said. I think you said Veronica Frazier was with Metro HR. But no, I was not.

Q. Okay. Were you aware of complaints brought to Kim McDoniel in the Finance/Auditing Department of Metro about your Payroll Department?

A. Only those that were brought through the external auditors, KPMG.

Q. And what was brought through the external auditors?

A. Certain employees -- well, employees not -- their garnishments, for instance, not being paid to the courts. Employees annuity payments not being made to the appropriate companies and vendors.

Q. And meaning the --

MR. YOUNG: Well, were you finished answering that question?

THE WITNESS: No.

BY MS. STEINER:

Q. Go on.

A. 941 IRS forms not being filed timely or accurately. Several were based on telephone calls that had either come into my office or come into Julie Waters' office from either IRS representatives or employees about problems with

[p. 46]

payroll issues.

Q. Okay. Now, the three employees in the department that brought problems to your attention, who were those three employees?

A. Tangie Broughton, B-R-O-U-G-H-T-O-N; Wanda Winton, W-I-N-T-O-N; and Diane Burden.

Q. Okay. And did you keep any sort of written documentation of their complaints?

A. No.

Q. Now, what I want to know is this, besides these three employees complaining, did you receive complaints from any other department in Metro about irregularities in your Payroll Department?

A. No.

Q. So the only complaints that you knew about something being irregular in that department was from these three employees?

MR. YOUNG: I object to the form of that question. Go ahead and answer it, if you can.

THE WITNESS: You what?

MR. YOUNG: I object to the form of the question.

THE WITNESS: No, those were the only three.

BY MS. STEINER:

Q. Okay.

[p. 47]

A. And I relayed that information to the auditors.

Q. Did these three employees, did someone tell them to come to you with their complaints?

A. Not that I know of.

Q. Do you know whether or not any other investigation was on-going at the same time or complaints being made to other departments at Metro about your Payroll Department?

A. No.

Q. Do you know whether or not Gene Hughes made any complaints about irregularities in the Payroll Department?

A. I think the auditors indicated that they had talked to him and that he had some issues.

Q. And do you know whether or not Dr. Hughes' issues arose -- he told the auditors of his issues before or after these three employees came to your office?

A. I don't know when he talked to the auditors or when they talked to him.

Q. Do you know when these three employees came to your office?

A. I think it was the first part of September 2002, because the auditors were still out here with the external audit that was going on.

Q. Does Dr. Gene Hughes have any -- did he have any oversight over the Payroll Department?

A. No.

* * *

[p. 110]

* * *

Q. Do you know what financial procedures were questionable?

A. Most of which were outlined in the charge letter.

Q. Now, did you know when you suspended Ms. Crawford that she had gone to Human Resources to state that Gene Hughes had engaged in inappropriate conduct?

A. No.

Q. Did you know in her disciplinary hearing that she had gone to Human Resources to complain about Gene Hughes?

A. No.

Q. I believe earlier you testified that you first got a copy of this fact-finding report at her hearing?

[p. 111]

A. At the end of her hearing. You gave me a copy of it, correct.

Q. Okay. And that would have been the first hearing; is that correct?

A. That would have been the only hearing.

Q. There was one hearing in your office and then there was one up in Dr. Garcia's office; is that correct?

A. Yes. Departmental hearing in my office.

Q. And that was to determine whether or not she should be fired; is that correct?

A. No. That was an opportunity to -- to give her an opportunity to respond to the charges in the charge letter.

Q. Okay. Now, when you were provided a copy of the fact-finding report, did you question anyone at Metro to find out whether or not her participation in this had had any impact on the investigation?

A. No.

Q. Did you contact anyone from Human Resources to ask exactly what was going on with this investigation of Gene Hughes?

A. No.

Q. Did you ask anyone about whether or not Gene Hughes had any input into making the initial complaint against Ms. Crawford?

A. No. The actions that I took against Ms. Crawford

[p. 112]

were totally separate from anything in this report or any of these situations.

Q. Did you speak with Dr. Garcia and tell Dr. Garcia that Ms. Crawford thinks she's being retaliated against?

A. Yes.

Q. Okay. And did you tell him that she thinks she's being retaliated against because she spoke to Human Resources against Dr. Hughes?

A. Yeah. I basically just reiterated what you had said at the departmental hearing about how this was a retaliation against Ms. Crawford. So I told him what you said.

Q. And what did Dr. Garcia reply?

A. He didn't reply.

Q. Did he ask you to investigate or to turn over to Human Resources her allegation that she was being retaliated against?

A. No.

Q. Okay. If someone in your department claims that they are being discriminated against, is that something that you would send them to Human Resources about?

A. Yes.

Q. And Human Resources should investigate it; is that correct?

A. Yes.

[p. 113]

Q. Okay. It's the same thing if someone thinks they're being retaliated against; is that correct?

A. Yes.

Q. Do you know whether or not anyone from Metro ever investigated Ms. Crawford's claim of retaliation?

A. I don't know.

Q. Okay.

A. And again, the actions I took were from -- were separate from this.

Q. May I have a copy of this letter. I don't want to make it an exhibit. (Document passed.)

Was anyone else disciplined as a resulted of the KPMG investigation, other than Ms. Crawford?

A. Mr. Bohnenstiel as part of our joint decision for him to resign.

Q. Did he keep full retirement benefits?

A. I have no idea.

Q. Was he found to be equally at fault with Ms. Crawford?

A. I don't know what you mean.

Q. Who made the decision that Mr. Bohnenstiel could resign but Ms. Crawford would be terminated?

A. He and I came to a joint decision that that's what would be best for both him and the district.

Q. Why was a decision not made to confront Ms.

[p. 114]

Crawford to see if she would resign?

A. Because I felt that the most appropriate action in that case was termination.

* * *

[p. 120]

REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, Roy M. Curry, Jr., court reporter, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing deposition of **CHRISTOPHER MASON**

HENSON by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me.

I further certify that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

/s/_____
ROY M. CURRY, JR., B.C. R., RPR, CRI, CCR
Bachelor's Degree of Court Reporting,
Registered Professional Reporter
Certified Reporting Instructor,
Certified Court Reporter, and
Notary Public State of Tennessee At Large

My Commission Expires: 3/27/2005

IN RE: VICKY S. CRAWFORD

Thursday, February 6, 2003

APPEARANCES:

For Metropolitan Government:
Mr. William Michael Safley
Associate Metro Attorney
Department of Law
204 Metro Courthouse
Nashville, TN 37201

For Vicky S. Crawford:
Ms. Ann B. Steiner
Steiner & Steiner
Washington Square, Ste. 203
214 Second Avenue North
Nashville, TN 37201-1644

Also Present:
Ms. Vicky S. Crawford
Dr. Pedro Garcia
Mr. Chris M. Henson
Mr. Charles W. Cagle
Mr. Kerry Pogue (paralegal)

Reported By:
Cheryl Buckelew Smith

* * *

[p. 172]

* * *

Q. Who contacted you?

A. Metro Human Resources.

Q. And what was the name of the individual, who was it?

A. Veronica Frazier I believe. The best I remember was Veronica Frazier.

Q. What did she inquire of you?

A. She said that she had been asked by

[p. 173]

Dr. Garcia to look into a matter and she questioned me, the different types of people that I had in contact during my regular course of my employment, where my office was located, if I had any contact with Dr. Hughes and in what capacity, did we have as far as a working relationship versus just a casual type of knowledge of each other.

Q. And what type of relationship did you have with Dr. Hughes?

A. We did have -- there was the sick-leave bank where his office and the payroll office would have to work jointly together in degerming the eligibility of the employees at which time I would either work with him

or with his secretary. But after a period of time I refused to have any dealings with Dr. Hughes' office at all.

Q. And why was that?

A. Because of the sexual harassment that he did to me.

Q. Did you tell this individual who contacted you about this?

A. Yes, I did.

Q. What did you tell her that Dr. Hughes had said?

A. He would grab himself and would grab his

[p. 174]

crotch and would also make reference to me giving him head. He would ask to see my breasts. He also grabbed my head to his crotch in my office.

Q. How did you feel about that?

A. Degrading, violated.

Q. When did you tell this person about this?

A. At the time that they questioned me.

Q. Do you recall the exact month?

A. It had to be June, shortly after the month of May because I was in the hospital. This happened right after I got out of the hospital. In the month of May is when he pulled my head to his crotch while I was sitting at my desk so this came after. It had to be June or July.

Q. Now, after you informed this person of what you knew about Dr. Hughes did you ever receive any input back about that investigation?

A. No. I was told to avoid -- I was told by Veronica, she advised me to avoid all contact with Dr. Hughes in any shape, form, or fashion, and that if anybody questioned the reason why I was to tell them to contact them.

Q. Why didn't you go to someone about these complaints?

A. Dr. Hughes is in charge of the department

[p. 175]

that handles these complaints. My supervisor, Mr. Bohnenstiel, I didn't go to him because I just felt like he was a space cadet, that he didn't care. He wouldn't understand. I did go to him on October the 14th and told him that day in regards to what had happened.

* * *

REPORTER'S CERTIFICATE

STATE OF TENNESSEE)

COUNTY OF WILSON)

I, Cheryl M. Buckelew, Court Reporter and Notary Public for the State of Tennessee at Large, with offices in Nashville, Tennessee, hereby certify that I reported the foregoing proceedings at the time and place set forth in the caption thereof; that the proceedings were stenographically reported by me and that the foregoing proceedings constitute a true and correct transcript of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of office this 24th day of February, 2003.

/s/_____
CHERYL M. BUCKELEW COURT REPORTER AND NOTARY PUBLIC FOR THE STATE OF TENNESSEE AT LARGE

My Commission Expires:

March 14, 2005